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SUMMONS

Doc. No. 391885

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
575 S. 10th Street - 3rd Floor
SEPARATE JUVENILE COURT-4th Floor
Lincoln NE 68508

Agency One Insurance Inc v. Westport Insurance Corp

Case ID: CI 13 436

TO: Westport Insurance Corp

You have been sued by the following plaintiff(s):

Agency One Insurance Inc

Pamela A Siroky

Plaintiff's Attorney: David A Dudley
Address: 1248 O St, Ste 600
Lincoln, NE 68508-0000

Telephone: (402) 475-1075

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: FEBRUARY 5, 2013

BY THE COURT:

Sue M Kirkland
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Westport Insurance Corp
CT Corporation Sustem, Reg. Agent
1024 K Street
Lincoln, NE 68508

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

Exhibit "A"

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

AGENCY ONE INSURANCE, INC. and
PAMELA A. SIROKY,

Plaintiffs,

vs.

WESTPORT INSURANCE CORP.,

Defendant.

Case No.: 13 - 436

**COMPLAINT and DEMAND FOR
JURY TRIAL**

COMES NOW the Plaintiffs, for their cause of action against Defendant, allege:

1. Plaintiff Pamela A. Siroky is a resident of David City, Nebraska and an insurance agent licensed by the Nebraska Department of Insurance.

2. Plaintiff Agency One Insurance, Inc. is an insurance agency located in David City, Nebraska and existing under the laws of the State of Nebraska.

3. At all times material herein, Plaintiff Siroky was the President of Agency One Insurance, Inc.

4. Defendant Westport Insurance Corp. is an insurance company doing business in the State of Nebraska.

5. Defendant issued a professional liability insurance policy, Policy No. WED4NE006184505, to Agency One with effective dates of coverage from February 16, 2011 to February 16, 2012. Westport subsequently issued an extension of this policy effective February 16, 2012 to May 27, 2012 ("the Policy"). Plaintiff properly paid the premium for this insurance coverage.

6. On May 17, 2012, a Complaint was filed in the United States District Court for the Northern District of Iowa Western Division styled *Metropolitan Property and Casualty Insurance Company v. Agency One Insurance Inc. and Pamela A. Siroky* and found at Civil No. 12cv4050-MWB ("the Federal Lawsuit").

7. In the Federal Lawsuit, MetLife insurance company asserts causes of action against Plaintiffs for professional negligence, breach of contract, breach of fiduciary duty, and vicarious liability. All of said causes of action arise out of insurance products or services provided by Plaintiffs.

8. The claims made against Plaintiffs in the Federal Lawsuit are covered under the terms and conditions of the Policy which requires the Defendant to defend against such claims and to indemnify the Plaintiffs for any judgment. The Plaintiffs have satisfied all conditions precedent under the Policy.

9. By correspondence dated May 31, 2012, Plaintiffs demanded that Defendant defend and indemnify Plaintiffs in the Federal Lawsuit pursuant to the terms and conditions of the Policy.

10. Defendant refuses to defend and indemnify Plaintiffs for the claims made in the Federal Lawsuit.

**FIRST CLAIM FOR RELIEF
BREACH OF CONTRACT**

11. Plaintiffs incorporate all allegations in paragraphs 1-10 as though fully set forth herein.

12. The Policy covers the claims made against Plaintiffs in the Federal Lawsuit and requires Defendant to defend and indemnify the Plaintiffs for said claims.

13. Defendant's refusal to defend and indemnify Plaintiffs constitutes a breach of the terms of the Policy.

14. As a result of said breach, Plaintiffs have suffered damages, including but not limited to the attorneys' fees it has incurred to date in defending the Federal Lawsuit.

**SECOND CLAIM FOR RELIEF
DECLARATORY JUDGMENT**

15. Plaintiffs incorporate all allegations in paragraphs 1-14 as though fully set forth herein.

16. This claim for relief is being brought pursuant to the Nebraska Declaratory Judgments Act, Neb. Rev. Stat. §25-21,149 et seq.

17. The Policy requires Defendant to defend and indemnify Plaintiffs for the claims made in the Federal Lawsuit.

18. This issue is a justiciable controversy which is ripe for judicial determination.

19. As a proximate result of Defendant's refusal to defend and indemnify Plaintiffs as the Policy requires, Plaintiffs have and will continue incurring attorneys' fees in defending the Federal Lawsuit and could ultimately have a judgment entered against them.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request the following relief:

A. That the Court enters judgment in Plaintiffs' favor and against the Defendant on all claims for relief;

B. That the Court award Plaintiffs the attorneys' fees and other damages they have incurred in defending the Federal Lawsuit to date;

C. That the Court declare the Defendant is obligated, pursuant to the Policy, to defend and indemnify the Plaintiffs for the claims made in the Federal Lawsuit;

D. That the Court award the Plaintiff attorneys' fees pursuant to Neb. Rev. Stat. §44-359; and

E. That the Court award the Plaintiffs costs, disbursements, interest, and such other relief as the Court may deem just and proper.

AGENCY ONE INSURANCE, INC. and PAMELA
A. SIROKY, Plaintiffs.

By: Baylor, Evnen, Curtiss, Grit & Witt, LLP
Wells Fargo Center
1248 "O" Street, Suite 600
Lincoln, NE 68508
(402) 475-1075

By: /s/David A. Dudley
David A. Dudley, #19036
Colin A. Mues, #24050

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